EXHIBIT 6

1   IN THE UNITED STATES DISTRICT COURT
     FOR THE SOUTHERN DISTRICT OF NEW YORK
2   MANHATTAN DIVISION
     --X
3   VIRTUAL SOLUTIONS, LLC,

4   Plaintiff,

5   Case No:
     VS.   12-CV-1118(SAS)
6
     MICROSOFT CORP.,
7   Defendant.
     --X
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10   HIGHLY CONFIDENTIAL VIDEOTAPED DEPOSITION

11   OF VYACHESLAV ZAVADSKY, PH.D.

12   Tuesday, November 27, 2012

13   New York, New York

14

15   * * * R O U G H   D R A F T * * *

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17   *** HIGHLY CONFIDENTIAL ***

18   ***ATTORNEYS' EYES ONLY***

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23   Reported By:

24   LINDA J. GREENSTEIN

25   JOB NO.

      1   November 27, 2012

      2   9: A.M.

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      7   Highly Confidential Videotaped

      8   Deposition of VYACHESLAV ZAVADSKY, PH.D.,

      9   taken by Defendant, pursuant to Notice,

     10   held at Fish & Richardson, P.C., 601

     11   Lexington Avenue, New York, New York,

     12   before Linda J. Greenstein, a Certified

     13   Shorthand Reporter and Notary Public of the

     14   State of New York.

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1   A P P E A R A N C E S:

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17 Also Present:

18

19 Robert Courtney, Esq.
    Fish & Richardson, P.C.
20
    Carlos Nunez, Legal Video Specialist
21 Esquire Video Solutions

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1   THE VIDEOGRAPHER: This is Tape

2   Number 1 of the Videotaped Deposition of

3   the Videotaped Deposition of Mr. Vyacheslav

4   Zavadsky in the Matter of Virtual Solutions

09:03:58 5   LLC versus Microsoft Corp. in the United

6   States District Court for the Southern

7   District of New York, Manhattan division,

8   Case Number 12-CV-1118 (SAS).

9   This deposition is being held at

09:04:12 10   Fish & Richardson, P.C., 601 Lexington

11   Avenue, New York, New York on November 27,

12   2012 at approximately 9:04 a.m.

13   My name is Carlos Nunez and I'm

14   the legal video specialist. Will counsel

09:04:27 15   please introduce themselves.

16   MR. GROCHOCINSKI: Tim

17   Grochochinski from Innova Law on behalf of

18   the plaintiff.

19   MS. DEGNAN: Lauren Degnan with

09:04:34 20   Fish & Richardson on behalf of Microsoft

21   Corporation.

22   MR. COURTNEY: Robert Courtney,

23   also from Fish & Richardson.

24   THE VIDEOGRAPHER: Will the

09:04:42 25   court reporter please swear in the

                1   witness.

                2   VYACHESLAV ZAVADSKY,

                3   having been first duly sworn, was examined

                4   and testified as follows:

09:04:54   5   EXAMINATION BY

                6   BY MS. DEGNAN:

                7   Q.   Good morning, Dr. Zavadsky.

                8   Would you please state your name

                9   and address for the record.

09:05:04 10   A.   Vyacheslav Zavadsky, Unit 33 at

               11   3205 Upland Drive, Ottawa Ontario K1V93

               12   Canada.

               13   Q.   Have you ever been deposed

               14   before?

09:05:15 15   A.   Yes.

               16   Q.   How many times?

               17   A.   Once.

               18   Q.   In what context?

               19   A.   The name of the case was Image

09:05:25 20   Processing LLC versus Cannon.

               21   Q.   Did you serve as a fact witness

               22   or an expert witness in that case?

               23   A.   Expert witness.

               24   Q.   Do you know approximately when

09:05:41 25   that deposition occurred?

           1   that led to the '353 patent was filed;

           2   correct?

           3   A.   Correct.

           4   Q.   And you today are aware of no

14:48:19   5   published dictionary or other definition of

           6   generator from 1999, are you?

           7   A.   No.

           8   Q.   Are you aware of any dictionary

           9   definition from 1999 of generator?

14:48:42 10   A.   Not off the top of my head.

          11   Q.   You don't have to read them out

          12   loud, but you look at the three definitions

          13   you've highlighted in your declaration,

          14   would you agree that in each of them, a

14:49:03 15   generator is computer software?

          16   A.   Yes.

          17   Q.   Is it your view that today the

          18   ordinary meaning of generator is computer

          19   software?

14:49:23 20   A.   In what context?

          21   Q.   In the context of the '353

          22   patent.

          23   A.   Yes.

          24   Q.   Is it your view that in 1999 the

14:49:39 25   ordinary meaning of the term generator in

                  1   the context of the '353 patent is computer

                  2   software?

                  3   A.   Yes.

                  4   Q.   Now, also in the three

14:50:04   5   definitions you provided in your

                  6   declaration, the output of a generator is

                  7   some sort of program or sub routine; is

                  8   that right?

                  9   A.   No.

14:50:33   10   Q.   At least some of the output is a

                  11   program or sub routine?

                  12   A.   Yes.

                  13   Q.   What else is an output besides a

                  14   program or sub routine?

14:50:43   15   A.   A particular type of output,

                  16   such as random numbers or application

                  17   program or report.

                  18   Q.   In the claim, the virtual

                  19   environment stimulus generator outputs

14:51:01   20   what?

                  21   A.   I understand that you're

                  22   referring to claim 1?

                  23   Q.   Claim 8.

                  24   A.   Virtual environment stimulus.

14:51:30   25   Q.   Is the virtual environment

                1   Box 95, and Box 102 which have stimuli to

                2   represent this data.

                3   I think it's possible. I'm not

                4   saying that it's the case. But there is

    15:20:11   5   some sort of relationship between them

                6   which kind of makes sense.

                7   Q.   I'm not really asking about the

                8   relationship.

                9   Based on your review of this

    15:20:25   10   patent, wouldn't you agree that a reaction

               11   is something that happens in response to

               12   the stimuli?

               13   A.   I agree with it.

               14   Q.   So stimuli are not the same as

    15:20:39   15   the reaction?

               16   A.   I don't necessarily agree with

               17   it, and the reason why, because reaction

               18   can be used as stimuli.

               19   Q.   Paragraph 42 you mention that

    15:21:13   20   Figures 2 and 3 and their chronic

               21   descriptions disclose an algorithm, which

               22   in your view are the following steps.

               23   Reads information from the virtual

               24   environment database, analyze that

    15:21:30   25   information and then based on that

1   generator."

2   A.   Yes.

3   Q.   What do you mean by that?

4   A.   I would rather give you example,

15:24:08 5   right? So I think it's not unreasonable to

6   say that the method called stimuli have to

7   be different for box -- let's say 23 and

8   Box 27 in Figure 2. Right?

9   Q.   I'm sorry, say that again?

15:24:54 10   A.   The actual code, the actual

11   software code, to implement method called

12   stimuli would be different for the Box 23

13   and Box 27 on Figure 2. It would make

14   sense, right? Therefore it would be, you

15:25:16 15   know, like a standard practice in object

16   oriented programming both now and in 1999

17   to define this method called stimuli as a

18   virtual function and create a sub class to

19   define different algorithm for the Box 27.

15:25:38 20   Q.   Does the '353 patent disclose

21   any steps of the methods of calc stimuli?

22   A.   I would say only at an extremely

23   high level, such as getData -- let me roll

24   back a little bit.

15:26:06 25   I think some details are

            1   provided for CalcStimuli for the boxes 23,

            2   24 and 25, and those details are provided

            3   at column 11, lines 52 to 58.

            4   To some extent, these lines can

15:26:38   5   be used for box 27 because, we already

            6   discussed, there is class, virtual sense of

            7   data, but not more details is disclosed.

            8   Q.   So this passage you just cited

            9   in column 11, lines 50 through 56, that you

15:27:01   10   believe is the method or algorithm for

           11   CalcStimuli in connection with elements 23,

           12   24 and 25, but that is not the method for

           13   element 27, virtual environment stimulus

           14   generator; correct?

15:27:20   15   A.   I would say that for 27, it

           16   would have to be at least slightly

           17   different, which would normally calls for

           18   creation of a different virtual function,

           19   different implementation of a virtual

15:27:37   20   function.

           21   Q.   It's your view that this

           22   slightly different method doesn't have to

           23   be disclosed because someone of skill in

           24   the art would know how to do it; right?

15:27:48   25   A.   Yes.

                  1   Q.   And, in fact, it's not disclosed

                  2   here in the patent?

                  3   A.   Not beyond what we already

                  4   discussed.

    15:27:59 5   Q.   Understood.

                  6   And that someone of ordinary

                  7   skill in the art in December of 1999 would

                  8   know how to write a new method that would

                  9   be CalcStimuli for element 27?

    15:28:13 10   A.   Yes.

                 11   Q.   So in paragraph 45 of your

                 12   declaration, you talk about a method from

                 13   column 13, line 40 to column 15, line 50?

                 14   MR. GROCHOCINSKI: Objection.

    15:29:21 15   The characterization, using the

                 16   word "method."

                 17   BY MS. DEGNAN:

                 18   Q.   Does this method, in your

                 19   opinion, support the function recited in

    15:29:41 20   claim 8, namely analyzing the virtual

                 21   database and generating a virtual

                 22   environment stimulus?

                 23   MR. GROCHOCINSKI: Same

                 24   objection.

    15:29:58 25   A.   I would say to some extent, yes.